App. F. IX-4

Previous References
Law 163-36-1,2,4-8

193 5.
(Law

File No. 64-35
Serial Nos. 1 — 5

Letter Reference

Preserve

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Jan

Part B for Dec-35

SUBJECT.

Fees due to Pleaders or Advocates

S) To

The Hon'ble Debutts.
" R.C.S. (1) Lucknow
" Govt. Advocate
" Secretaries to Govt.
" Comptr.
" Regr. Alld.
" P.S.

WD 03607—GPB—22,500—2-8-35

No. P. 2438-96 dy 10 10-35
Doubts that at the time of institution in defending a Civil Suit or other proceeding on behalf of Govt. the fees ——— need not be paid in advance.

Addl Regr
12-11-35

Extract from G.O no. 8 Genl Law (4) dt 13.6.38 sanctioning payment of half fee Regulation to the Govt. Pleader in the Civil Suit filed vesting of Land in

1) Reference orders will issue re: the general permission asked for by the Govt. Pleader to take in advance half the Regn. fee in all cases in which he is asked to file suits on behalf of Govt.

2) The following addition clause to rule 56 of the rules for the legal affairs of Govt is suggested for Consideration

56 2 (d) " When the Govt Pleader is asked to file a Civil Suit on behalf Govt. he is entitled to take in advance half the Regulation fee Calculated according to the maximum amount of suit proposed

ISD 24/6 3) Please ascertain from the PPs the practice now prevailing in such cases -

Please see also what the Bombay rules are in this matter. MM 24/6/38

4) Govt Govt for orders

ISD 25/6

5) Submitted

MM 25/6.

NOTE—Contn. Sheet.

The two rules may be separated

MM 25/6

Separated ISD 25/6

7095 35

File No. of 193 General and Revenue Secretariat

To,

The PWRs

no. 8. 7151-53 d 28.6.35 enquiring whether the claim for fees is made only after the disposal of the suit or proceeding

From,

The PWR. Mys.

no. 1839 d 30.6.35 intimating that it has not been the practice to claim the fee in advance.

Subd for perusal

7) Reply from the other 2 PWRs is awaited

TSD 3/7

pdf 3/7

From,

The PWR. Shimoga

no. 3 d 6.7.35 stating that he has been invariably levying his claim for fee only after disposal of the proceedings.

Subd for perusal

8) Reply from the PWR. Bldr may be awaited

TSD 9/7

pdf 9/7

From,

The Pbr. Blore

no. 15/35-36 d 9.7.35 stating that it is usual to receive fee in part at the time of filing the suit

a) The Pbrs of Mysore and Shimoga report that it has not been the practice to claim the fee in advance. The Pbr. Blore says that the fee is usually received in part at the time of filing the suits entrusted to him. However the practice followed in all the 3 divisions is not uniform.

b) Kind reference is invited to rule 164 of the Bombay legal affairs rules. The Govt. pleaders are required to submit their bills as soon as possible after each case has been decided. In order to provide for ordinary Charges incidental to Civil and Criminal Cases, they are allowed given a reasonable amount of permanent advance. No such imprest amount is given to our Pprs.

c) In view of the Bombay rule it is for Consideration here for it is advisable to pay the fees in advance

Submitted for orders with reference to para 3 supra

TSD
17/7

d) In civil case, the fee to be paid is ordinarily the maximum amount assessable by the Court and hence it is not desirable to pay the fee or any portion of it in advance. Moreover when a case as often happens, is handled

NOTE—Contn. Sheet.

advocate holding the office of
by two or even three Public Prosecutors
in succession, the total fee is to be
apportioned between them
accordance with the work done
by each. I am not therefore in
favour of amending the rule in this
respect. The practice said to be in
vogue in Bangalore of drawing part
of such fees in advance is against
the rules and has to be stopped. If
any instructions in this behalf are
be sent to the Heads of Depts etc.

13) This may be done
I.T.M.

14) As regards the suggestion to allow
each PPx, some imprest amount to
meet contingent charges etc, I think
this is very necessary and may be
accepted. The Govt advocate, for instance,
is allowed an imprest of Rs 300/- to
meet contingency charges. A sum of Rs
100/- to each of the PPs, who are
ex-officio Govt pleaders may be
allowed for similar purposes. This
is no additional expenditure, because
the expenses that would be met out
of this imprest are now met out of
advance payments received from the
several offices on whose behalf the
PPx will be acting in his professional
capacity.

15) Agreed
H.E.

(Gen Secy)

I.T.M. 25/7

FINANCIAL SECRETARIAT
U.O.No: FI 2 ...
27 JUL 1935
BANGALORE

Jl 259

Forwarded with compliments to the Comptroller for favour of remarks. Expenditure (miscellaneous) incurred in the past 3 years by each P. Prosecutor may also be furnished.

27.7.35

B.O.

for Sec'y

112/54

TA.D.A.II 1150/29/35.

U.O.No.104/T.A.D.A.i. Dated 3rd Septr.35.

Returned with compliments.

The expenditure incurred by each Public Prosecutor is not separately booked in the registers of this office and hence the required information is not available.

It is not necessary to grant an imprest to each public prosecutor, as advances required for the initial and subsequent expenses of a suit will be paid by the Department concerned from out of its budget grants. (Vide para 165(d) M.C.A.C.Vol.I.).

H.A.

Comptroller.

3.9.35

I agree with the Comptroller's note (marked A).

9.9.35

9.9.35

Jl 259

OFFICE OF THE SECOND MEMBER OF GOVERNOR. 10 SEPT. 1935 No. 1150/12.

Contn. Sheet.

10/9

3/9

10/9

File No. of 1935.

General and Revenue Secretariat

Subj: Issue a dft Circular ~~xxx~~ reg: to para 13 Supra.

TSD 14/9 No circular is necessary. Let the Lee file Law/163-34-5

~~Xxxxxxxxxxxx~~ pmc 14/9

Law 163-34 : placed below

TSD 18/9 A draft G.O. in pursuance of the 2nd para of the G.O. dt 13.6.35 may be put up

pmc 18/9

Dft G.O. submitted accordingly

TSD 19/9 Fair draft

pmc 20/9

Typed dft put up.

TSD 23/9 For approval

(Lee Secy) pmc 23.9.35

(H M Lee) 24/9

30/9

pmc 30/9

JPT 1/10

HMW 2/10 Issue pmc 4/10

GENERAL DEPARTMENT
20 SEP 1935
GENL & REV. SECTT.

GENERAL DEPARTMENT
24 SEP 1935
662

OFFICE OF THE SECOND MEMBER OF COUNCIL
1 OCT. 1935
No. 207

GENERAL DEPARTMENT
3 OCT 1935
GENL & REV. SECTT.

Serial No.

100 copies of the G.O. now under issue, may be got multigraphed for distribution among the Hds of Depts

TSD
10/10.

Nehsa
10/10/35

(Subject for order separately)

To,

The Hds of Depts
" D.Cs'
" Govt. Ad.
" Secretary to Govt
" Comptroller
" Regr H.Ct.
" Pors.

G.O. no. P. 2438-34 Law 64-35-5 d 10.10.35
directing that fees are not generally
in favour of allowing the fees due to
the Pleaders under to be paid in advance

WD 03594—GPB—30,000—13-7-35

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 7151-53 Law 6L-35-1 Bangalore, Dated, 27th June 1935

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Public Prosecutor,

Sir,

I am directed to enquire if in cases in which you are engaged to file a civil suit or take other civil proceedings on behalf of Government or its officers, any fee is paid to you in advance at the time of filing the suit itself or whether the claim for fees in all cases either by or against Government is made only after the disposal of the suit or proceeding.

I have the honor to be,
Sir,
Your most obedient servant,

for General Secretary to Government.

TSD

C.R.4

4 copies

Appendix F G—1]

SUBJECT .....

.....

.....

Section Law

File No. Gen-35

Serial No. /

Diary No. of letter replied to .....

No. D 7151-53

To The PPS

General and Revenue Secretariat

( )

the *193*

Date of issue 28/6/35

Signed by Jm N R f h

Sir

I am directed to state that according to the rules for the Conduct of the legal affairs of Govt, the ~~Advocate~~ remuneration to the PP in all the Civil Cases in which he is asked to appear for and on behalf of Govt is payable on the termination of the Case entrusted. Some instances have come to the notice of Govt where the ~~Advocate~~ fee has been received ~~half the rate~~ in advance especially ~~in advance~~ fee is being claimed, in Cases

List of enclosures .....

Copied by .....

Examined by .....

Should the PPr proceed to file
a Civil Suit on behalf of Govt
I am therefore directed to
request you to intimate for
information of Govt the practice
prevailing in your Case

I have the
honour to be,
Sir,
Your obedient
servant
ISD 25/6

Encl:

To, The PPr

Sir,

I am directed to enquire
from in cases in which you are
engaged to file a Civil Suit or take
other Civil proceedings on behalf
of Govt or its officers, any fee
is paid to you in advance
at the time of filing the Suit
itself or whether the claim for
fees in all cases either by or against Govt
is made only
after the disposal of the
Suit or proceeding

35 P 935 4

Law 64-35-2

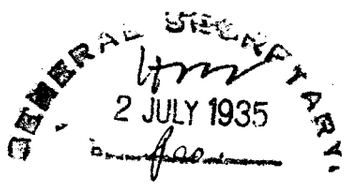
19

From

The Public Prosecutor
Mysore Division,
Mysore.

To

The General Secretary to the
Government of H.H.the
Maharaja of Mysore.
Law Section,
Bangalore.



Dated 30th June 1935.

Despatched -do-

Received

General No. 1639

No.

Enclosure No.

Sir,

I have the honour to acknowledge the receipt of your letter No.P.7151-53 Law dated 27/28th June 1935 enquiring to know the prevailing practice in this office of claiming and recovering fees in suits filed by or against Government, and to state as follows:-

(1) Suits and other civil proceedings filed on behalf of Government.

When a suit is proposed to be filed an estimate of probable cost will be submitted for the information of the concerned department. This estimate is required to enable the department to obtain the sanction of the Government for incurring the expenditure of the litigation. The estimate of probable cost does include the advocate's fee also but it has not been the practice to claim the fee in advance or to appropriate it before the termination of the suit. In civil proceedings other than suits a similar practice is followed. In miscellaneous cases and execution cases for the

the recovery of pauper institution fees rough estimates of probable expenditure are given at the time of getting the papers signed by the officer concerned. These estimates do not contain advocate's fees, which will have to be ascertained at the termination of the proceedings in accordance with the memo of costs or other orders passed by the Court.

2) Suits and civil proceedings against Government.

In this case also no fees are claimed at the time of accepting the engagement. After the proceedings are closed legal remuneration bills will be prepared and submitted for the countersignature of the Judge. The countersigned bills will then be submitted to Government or the department concerned and the remuneration will be drawn after sanction.

So far as this office is concerned care has always been taken not to mix up court expenses with legal remuneration. All moneys received for meeting the expenses of Government litigation are deposited in the Mysore Bank in the name of the Public Prosecutor. Cheques are issued to the stamp vendor from time to time. Fees claimed and recovered are entered in a separate private register.

When Government officers file suits on behalf of the proprietors of Inam villages although the legal remuneration may have been appropriated from lumpsum advances made in the beginning countersigned bills are submitted before the advance is adjusted and accounts rendered to the officer that pays the advance. In all special engagements before Magistrates legal remuneration is drawn on countersigned bills after the cases are closed.

I have the honour to be,
S i r,
Your most obedient servant,

K Ramadas Rao

Public Prosecutor,
Mysore Division.

25-P-35-6

No. 25-35-36

Enc. ....

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,
DISTRICT OFFICE BUILDINGS,

Bangalore, 9th July *193* 5

Law 64-35-3

FROM

G.S. Doraswamy Iyer, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division, Bangalore.

GENERAL SECRETARIAT
10 JULY 1935
Law

To

The General Secretary to the Government of H.H.
the Maharaja of Mysore, Bangalore.

SIR,

With reference to your letter No.P.7I5I-53/Law dated 27/28th June I935, I have the honour to state that in cases in which suits are filed on behalf of Government or departments of Governmen it is usual to receive fees in part, at the time of filing the suit, for example in O.S.I7/34-35 on the file of the District Judge, Bangalore (Sri Yethiraja Mutt -VS- Mr. M.T. Narayana Iyengar and others) where the amount to be recovered is Rs.350/- a sum of Rs.I76-4-0 has been received towards fees.

Advances are made for further expenses such as process fees etc. which are recovered later.

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor.

KHR.

G.R. Norsworthy Dyer, Sec., D.C., P.C.,

a General Secretary to the Government of
the Leeward Islands, Barbados.

With reference to your letter No.P.PIEI-83/New dated 27/09th June 1936, I have the honour to state that in cases in which suits are filed on behalf of Government or against Corporations it is usual to receive fees in part at the time of filing the suit for example in O.S.IV/24-40 on the file of the Assistant Judge, the fore (part Petitioned suit -Rs- Rs. C.C. Surveying Charges as other where the amount to be recovered is -Rs- a sum of -170-4-0 Rec- ceipt for Rs 170-

Advances are made for further expenses from time to time as the case progresses.

I have the honour to be,
Sir,
Your most obedient servant

Registration.

P 6/35
Law 64-35/4

—GPB—

From The Public Prosecutor
Shimoga Divn

To The General Secretary
to
The Govt of H.H. the
Maharajah of Mysore

Dated 5-7-1935

Despatched 6-7-1935

Received

General No. 3
No.

Enclosure No.

GENERAL SECRETARY
8 JULY 1935

Sir

With reference to your letter No. P 7157-53/Law dt 28th June 1935 asking me whether any advance is paid to me towards fees in all civil suits or proceedings by or against the Govt I have the honour to state that ever since I took charge of this office, I have not obtained any advance towards any fees in any of the cases, but,

I have been invariably laying my claim
to fees only after disposal of the proceedings
But, I have been in the habit of BK R
taking advances towards litigation
expenses for which I am furnishing
accounts to the
authorities concerned. And if further
Note. In several cases even though
the proceedings have terminated, I have
not yet obtained my fees either for
failures in the submission of bills or
for not having prepared the bills.

I have the honour to be
Sir
your most obedient
servant
B Krishna Rao
Public Prosecutor
Shimoga

Proceedings of the Govt. of H.H.

the Maharaja of Mysore.

R e a d :-

Letter No.1077/34-35 dated 7th May 1935 from the Public Prosecutor,Bangalore forwarding a copy of the letter dated 1st May 1935 from the Director of Public Instruction asking him to refund the advance of Rs.115 - received as Advocate's fee in the marginally noted suit and requesting permission of Government to take in advance half the regulation fee in cases in which he is instructed to file suits on behalf of Government.

O.S.658/34-35 on the file of the I Munsiff, Bangalore (Govt. vs Mrs.Seshamma)

2. Govt.order No.P.6840-42/Law.143-34-5 dated 13th June 1935 permitting the Public Prosecutor,Bangalore as a special case to retain half the fee paid in advance in the above case and directing that separate orders would issue re: the general permission asked for to take in advance half the regulation fee in all cases in which suits on behalf of Government are filed.

Order No.er NOP 2438-94 Law 64-35-5

Dated,Bangalore, the 10th Oct 35

In civil cases the fee to be paid under the rules for the conduct of Legal affairs of Government is ordinarily the maximum amount assessable by the Court and when a case is conducted by two or even three advocates who may happen to hold the office of the Govt. Pleader or Advocate, the total fee payable for the case will have to be apportioned between them in accordance with the nature and

LO 6/10/35

and quantity of work done by each of of them. Under these circumstances, Government are not generally in favour of allowing the fees due to the Pleaders or Advocates to be paid in advance at the time of instituting or defending a civil suit or other proceeding on behalf Government. No change in the rules on this point is therefore necessary. Any practice to the contrary said to be in vogue in the Bangalore Division ~~is to be stopped~~ Sd cease - PL.

General Secretary to Govt.

TSP 28/5

To

The Heads of Departments.
he Deputy Commissioners of Dts
" Government Advocate
" Secretaries to Govt.
" Comptroller to Govt.
" Registrar, High Court
" Ni PAS.

Secretary to Govt. Adv

roceedings of the Government of His Highness

the Maharaja of Mysore.

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O.S. No.658/34-35 on the file of the First Munsiff, Bangalore(Government vs. Seshamma)

marginally noted suit and requesting permission of Government to take in advance half the regulation fee in cases in which he is instructed to file suits on behalf of Government.

2. Government order No.L.6840-42/Law.143-34-5 dated 13th June 1935 permitting the Public Prosecutor, Bangalore as a special case to retain half the fee paid in advance in the above case and directing that separate orders would issue re: the general permission asked for to take in advance half the regulation fee in all cases in which suits on behalf of Government are ~~hereby~~ filed.

Order No. P 2438-94 Law 64-35-5

Dated, Bangalore, the 6th October 1935.

In Civil cases the fee to be paid under the rules for the conduct of Legal affairs of Government is ordinarily the maximum amount assessable by the Court and when a case is conducted by two or even three advocates who may happen to hold the office of the Government Pleader or Advocate, the total fee payable for the case will have to be apportioned between them in accordance with the nature and quantity of work done by each of them. Under these circumstances, Government are not generally in favour of allowing the fees due to the Pleaders or Advocates to be paid in advance at the time of instituting or defending a Civil suit or other proceeding on behalf of Government. No change in the rules on this point is therefore necessary. Any practice to the contrary

s a i d

said to be in vogue in the Bangalore Division should cease.

For General Secretary to Government.

To

The Heads of Departments.
" Deputy Commissioners of Districts.
" Government Advocate in Mysore.
" Secretaries to Government.
" Comptroller to Government.
" Registrar, High Court of Mysore.
" The Public Prosecutor

MK.10.

Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS

G. O. No. P. 2438-94/Law 64-35-5 Bangalore, Dated, 10th October 1935.

Pleaders or Advocates

Directs that at the time of instituting or defending a cival suit or other proceeding on behalf of Government the fees due to the------need not be paid in advance.

Read:—

Letter No.1077/34-35 dated 7th May 1935 from the Public Prosecutor, Bangalore forwarding a copy of the letter dated 1st May 1935 from the Director of Public Instruction asking him to refund the advance of Rs.115 received as Advocate's fee in the * marginally noted suit and requesting permission of Government to take in advance half the regulation fee in cases in which he is instructed to file suits on behalf of Government.

*O.S.No.658 of 34-35 on the file of the 1st Munsiff, Bangalore (Government vs. Seshamma.)

2. Government order No.P.6840-42/Law.143-34-5 dated 13th June 1935 permitting the Public Prosecutor Bangalore as a special case to retain half the fee paid in advance in the above case and directing that separate orders would issue re: the general permission asked for to take in advance half the regulation fee in all cases in which suits on behalf of Government are filed.

ORDER NO.P. 2438-94/LAW.64-35-5 DATED 10TH OCTOBER 1935.

In civil cases the fee to be paid under the rules for the conduct of legal affairs of Government is ordinarily the maximum amount assessable by the Court and when a case is conducted by two or even three advocates who may happen to hold the office of the Government Pleader or Advocate, the total fee payable for the case will have to be apportioned between them in accordance with the nature and quantity of work done by each of them. Under these circumstances, Government are not generally in favour of allowing the fees due to the Pladers or Advocates to be paid in advance at the time of instituting or defending a civil suit or other proceeding on behalf of Government. No change in the rules on this point is threfore necessary. Any practice to the contrary said to be in vogue in the Bangalore Division should cease.

H. V. RAMASVAMI,
General Secretary to Government.

To—The Heads of Departments.
The Deputy Commissioners of Districts.
The Government Advocate in Mysore.
The Secretaries to Government.
The Comptroller to Government.
The Registrar, High Court of Mysore.
The Public Prosecutors.